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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/776,265      | 02/02/2001  | Mark A. Christopherson | P-9126.00           | 9662             |

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MEDTRONIC, INC.  
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EXAMINER

MCCROSKY, DAVID J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3736

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/776,265

Applicant(s)

CHRISTOPHERSON ET AL.

Examiner

David J. McCrosky

Art Unit

3736

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 8-22.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

ERIC F. WINAKUR  
PRIMARY EXAMINER

Continuation of 2. The amendment does not materially change the claims. Regarding the 112 1<sup>st</sup> paragraph rejection, the information remote monitor is disclosed as being a computer-based device and therefore runs software. A broad statement such as "in its entirety" does not meet "particular attention should be directed to specific portions of the referenced document where the subject matter being incorporated may be found." The language at col. 6, ll. 35-39 in Taepke suggests, contrary to what is claimed, that the physician himself must correct the data on a personal computer. Contrary to Applicant's assertions, the quoted passage at p. 8, ll. 23-30 of the specification implies that two separate data sets are transferred (EPR and Chronicle data) not corrected pressure data. Nowhere does the disclosure describe combining two separate sets before transfer. The specification merely states that after simultaneous downloading of two data sets, data is transferred.

Continuation of 5. Regarding the 103 obviousness rejection, Krichen et al teach multiple types of data format conversion and transfer beyond a memory dump format. The suggestion to combine comes from the references themselves. For example, Halperin teaches the transfer of data from a programmer to a computer (col. 6, ll. 22-28) and Krichen et al teach a connection which facilitates transfer of information between the programmer and computer (e.g. col. 11, ll. 57-59). Krichen et al teach a system for transferring data from a programmer (IRM), which has gathered data from an IMD, to a remote location for further review and, as a whole, teaches the desirability for such a system. See e.g. col. 1, ll. 60-67.